

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MICHAEL N. KELSEY,

Plaintiff,

-against-

21 **CIVIL** 4298 (PMH)

JUDGMENT

JEFFREY RUTLEDGE, et al.,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum Opinion and Order dated June 10, 2022, Defendants' motion to dismiss is GRANTED and the Amended Complaint is DISMISSED with prejudice for failure to state a claim. Plaintiff's motion for reconsideration of the May 27, 2021 Order of Service dismissing Duwe is DENIED as moot. While "[d]istrict courts should frequently provide leave to amend before dismissing a pro se complaint...leave to amend is not necessary when it would be futile." Reed v. Friedman Mgmt. Corp., 541 F. App'x 40, 41 (2d Cir. 2013) (citing Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000)). The Amended Complaint is dismissed with prejudice because Plaintiff already had and took an opportunity to amend, and any further amendment would be futile. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from the Memorandum Opinion and Order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue; accordingly, the case is closed).

Dated: New York, New York

June 10, 2022

RUBY J. KRAJICK

Clerk of Court

BY:

K. mango

Deputy Clerk